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JUL 10 2006

## OFFICE OF PETITIONS

In re Application of  
Goodwin  
Application No. 09/755,317  
Filed: January 5, 2001  
Attorney Docket No. N/A  
For: NETWORK METHOD SYSTEM AND  
APPARATUS FOR RECORDING AND  
MAINTAINING RECORDS

:  
:  
: DECISION ON PETITION  
: UNDER 37 CFR 1.181  
:

This is a decision on the petition under 37 CFR 1.181, filed May 11, 2006 (certificate of mailing date May 8, 2006), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to reply within an extendable three month period to the non-final Office mailed July 21, 2005. Having received no extension of time or reply, the Office contended that this application became abandoned on October 22, 2005. A Notice of Abandonment was mailed on May 4, 2006.

Petitioner asserts that a reply was timely filed on certificate of mailing date October 4, 2005 and received in the Office on October 6, 2005. In support of this assertion, petitioner has provided a copy of applicant' response that contains a proper certificate of mailing bearing a October 4, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

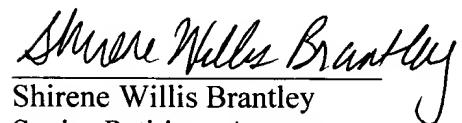
The Certificate of Service bears a proper certificate of mailing, dated October 4, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the attorney signing the certificate, Michael E. Mauney, had reasonable basis to expect that the correspondence would be mailed on October 4, 2005.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing October 6, 2005 as the date of receipt, affixed thereto. The postcard lists that the filing included a "Response to Office Action" in application no. 09/755,317. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on October 6, 2005, 2005. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the May 4, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Technology Center AU 2143 for consideration of the amendment filed on certificate of mailing date October 4, 2005 and resubmitted with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

  
Shirene Willis Brantley  
Senior Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy